

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

JOHN DOE, §
a/k/a CARLOS MARTINEZ-MELENDEZ, §
SPN 1041779, §
Plaintiff, §
v. §
PATRICK MEDLECK, *et al.*, §
Defendants. §

CIVIL ACTION NO. H-10-5197

OPINION ON DISMISSAL

On July 15, 2009, plaintiff John Doe filed, through counsel, a civil rights suit against the same defendants named in the present suit and on the same grounds as alleged in the present suit. *See Doe v. Medlock*, Civil Action No.4:10-cv-000573 (S.D. Tex.). Civil Action No.4:10-cv-000573 is pending in this Court. After reviewing all of the pleadings as required by 28 U.S.C. § 1915A, the Court concludes that this case must be dismissed for reasons that follow.

STANDARD OF REVIEW

The *pro se* complaint in this case is governed by the Prison Litigation Reform Act (“PLRA”). The PLRA requires that the district court review a complaint in a civil action in which a prisoner seeks redress from a governmental entity or officer or employee of a governmental entity. 28 U.S.C. § 1915A(a). On review, the Court must identify cognizable claims or dismiss the complaint or any portion thereof, if the court determines that the complaint is frivolous, malicious, fails to state a claim upon which relief may be granted or seeks monetary relief from a defendant who is immune from such relief. 28 U.S.C. § 1915A(b). Repetitious litigation raising the same cause of action as a previous or pending lawsuit is subject to dismissal

under§ 1915A as malicious. *Pittman v. Moore*, 980 F.2d 994, 995 (5th Cir. 1993) (claims which duplicate claims pending in another federal action by the same plaintiff are malicious).

DISCUSSION

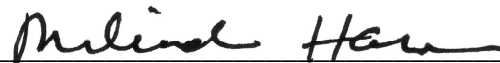
The present complaint is almost identical to the complaint that plaintiff filed in *Doe v. Medlock*, Civil Action No.4:10-cv-000573 (S.D. Tex.). Plaintiff alleges the same basic claims against the same defendants in both complaints. Because the claims in this action are duplicative of those raised in Civil Action No.4:10-cv-000573 (S.D. Tex.), this complaint is subject to dismissal as malicious under 28 U.S.C. §1915A.

CONCLUSION

Based on the foregoing, the Court ORDERS plaintiff's civil rights complaint is DISMISSED, with prejudice, as malicious. 28 U.S.C. § 1915A. All pending motions are DENIED.

The Clerk will provide copies to the parties.

SIGNED at Houston, Texas, this 11th day of April, 2011.

A handwritten signature in black ink, appearing to read "Melinda Harmon", is written over a horizontal line.

MELINDA HARMON
UNITED STATES DISTRICT JUDGE